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SEALED BY ORDER
OF THE COURT

FILED

APR 21 2017

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

RECEIVED

APR 20 2017

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES, and the STATE OF
CALIFORNIA, *ex rel.* MANUEL ALCAINE,

Plaintiff and Relator,

v.

No. 10-CV-4597 PJH

JOINT STIPULATION OF
VOLUNTARY DISMISSAL OF
CERTAIN CLAIMS AND
PRESERVATION OF CERTAIN
RELATOR CLAIMS; ~~PROPOSED~~
ORDER

BRADEN PARTNERS, LP, TEIJIN PHARMA
USA LLC, PETER B. KELLY AND CHAD
HEATH MARTIN, AS INDIVIDUALS AND
PARTNERS OF BRADEN
PARTNERS, LP, SAN LEANDRO SLEEP
DISORDERS CENTER, PC CONTRA

FILED UNDER SEAL

1 CONSTA SLEEP CENTER, LLC,)
 2 DRS. KIRIT PATEL, JAGJEET KALRA,)
 3 AND RON KASS, D.B.A.)
 4 HAYWARD EB SLEEP DISORDERS)
 5 CENTER; DR. MAN KONG LEUNG, D.B.A)
 6 PACIFIC COAST SLEEP DISORDERS;)
 7 AND DR. HARAMANDEEP SINGH,)
 8 D.B.A. SLEEP MEDICINE SPECIALISTS)
 9 OF CALIFORNIA,)

10 Defendants.)
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Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the *qui tam* provisions of the False Claims Act (FCA), 31 U.S.C. § 3730(b)(1), the United States, the State of California (the State), and Relator Manuel Alcaine (Relator), hereby stipulate as follows:

1. In accordance with and subject to all of the terms of the settlement agreement among the Plaintiffs and Defendants Braden Partners, LP, doing business as Pacific Pulmonary Services, and Teijin Pharma USA LLC (Braden Partners, LP, and Teijin Pharma USA LLC are collectively referred to herein as PPS), effective April 18, 2017 (the "Settlement Agreement"), the United States, the State and Relator hereby stipulate to the entry of an order dismissing all claims asserted on behalf of the United States and the State against PPS subject to the FCA, 31 U.S.C. §§ 3729-3733, and the California False Claims Act, Cal. Government Code § 12650 *et seq.*, in the above-captioned action; provided, however, that such dismissal in no way dismisses, releases or waives Relator's claim for attorneys' fees and costs pursuant to 31 U.S.C. § 3730(d) or Relator's claim under 31 U.S.C. § 3730(h) (Count VI), and such claims are expressly preserved, and are the subject of an anticipated separate settlement agreement between the Relator and PPS.
2. As to the United States and the State, the claims against Braden Partners, LP, and Teijin Pharma USA LLC are dismissed with prejudice, subject to all of the terms of the Settlement Agreement, as to the Covered Conduct and California Covered Conduct released in the Settlement Agreement and without prejudice as to any other claims.

JOINT STIPULATION OF VOLUNTARY DISMISSAL OF CERTAIN CLAIMS AND PRESERVATION OF CERTAIN RELATOR CLAIMS; [PROPOSED] ORDER
 No. 10-CV-4597 PJH


3. As to Relator, all claims against Braden Partners, LP, and Teijin Pharma USA LLC on behalf of the United States under the FCA and on behalf of the State under the California False Claims Act are dismissed with prejudice, subject to all of the terms of the Settlement Agreement, except that Relator's claim for attorney's fees and costs pursuant to 31 U.S.C. § 3730(d) and Relator's claim under 31 U.S.C. § 3730(h) (Count VI) shall be resolved either by the Court or through a separate agreement between Relator and PPS. A stipulation of dismissal for attorney's fees and costs pursuant to 31 U.S.C. § 3730(d) and Relator's claim under 31 U.S.C. § 3730(h) (Count VI), is anticipated to be filed with the Court pursuant to the terms of an anticipated separate settlement agreement between the Relator and PPS.
4. The United States, the State, and Relator hereby dismiss without prejudice their claims against the defendants other than Braden Partners, LP, and Teijin Pharma USA LLC.
5. According to the terms of the Agreement, this Court retains jurisdiction over any disputes that may arise regarding compliance with such terms.
6. The Government requests that the Relator's Complaint, this Stipulation, and the attached [proposed] Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

IT IS SO STIPULATED.

BRIAN J. STRETCH
United States Attorney

DATED: 4/20/17

BY:


GIOCONDA R. MOLINARI
Assistant United States Attorney
United States Attorney's Office
for the Northern District of California

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JOINT STIPULATION OF VOLUNTARY DISMISSAL OF CERTAIN CLAIMS AND PRESERVATION OF CERTAIN RELATOR CLAIMS; [PROPOSED] ORDER
No. 10-CV-4597 PJH

1 CHAD A. READLER
2 Acting Assistant Attorney General
3 DATED: 4/20/17 BY: Sh for Tracy Hilmer
4 TRACY L. HILMER
5 Assistant Director
6 Commercial Litigation Branch
7 Civil Division
8 United States Department of Justice

THE STATE OF CALIFORNIA

9 XAVIER BECERRA
10 Attorney General, State of California
11 DATED: 4/20/17 BY: Sh for John Fisher
12 JOHN FISHER
13 Deputy Attorney General
14 Attorneys for the State of California

QUI TAM RELATOR

15 DATED: 4/20/17 BY: Barbara Giuffre
16 RICHARD W. RAUSHENBUSH
17 BARBARA GIUFFRE
18 Attorneys for Qui Tam Relator
19 DATED: 4/20/17 BY: Janet Rehnquist
20 JANET REHNQUIST
21 Rehnquist Law PLLC
22 Attorney for Qui Tam Relator (with permission)

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24
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27 JOINT STIPULATION OF VOLUNTARY DISMISSAL OF CERTAIN CLAIMS AND PRESERVATION OF CERTAIN
28 RELATOR CLAIMS; [PROPOSED] ORDER
No. 10-CV-4597 PJH

CERTIFICATION

Pursuant to Local Rule 5-1(i)(3), the undersigned hereby attests that Assistant Director Tracy Hilmer and Deputy Attorney General John Fisher have concurred in the filing of this document and authorized me to sign it on their behalf.

BRIAN J. STRETCH
United States Attorney

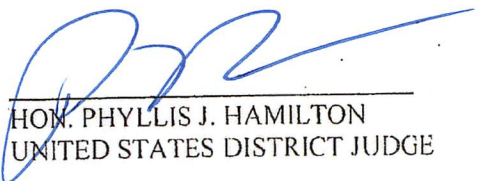
DATED: 4/20/17

BY: 
GIOCONDA R. MOLINARI
Assistant United States Attorney

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The Court directs the Clerk to unseal the Complaint, this Stipulation, and this Order. All other all pleadings and other documents filed in this action shall remain under seal.

DATED: April 21, 2017


HON. PHYLLIS J. HAMILTON
UNITED STATES DISTRICT JUDGE

JOINT STIPULATION OF VOLUNTARY DISMISSAL OF CERTAIN CLAIMS AND PRESERVATION OF CERTAIN RELATOR CLAIMS; [PROPOSED] ORDER
No. 10-CV-4597 PJH

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MANUEL ALCAINE,
Plaintiff,

v.

BRADEN PARTNERS, LP, et al.,
Defendants.

Case No. 10-cv-04597-PJH
SEALED

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 4/21/2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

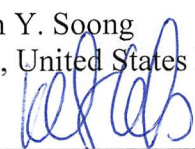
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Division
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Washington, DC 20044

Dated: 4/21/2017

Susan Y. Soong
Clerk, United States District Court

By: 
Kelly Collins, Deputy Clerk to the
Honorable PHYLLIS J. HAMILTON

United States District Court
Northern District of California